

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 9-17, 19-25, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altenburger et al in view of Hayes 3,801,015.

Altenburger et al. disclose a hand-operated portable sprayer (col. 1, ll. 1-9), which comprises a tank 1, flow controller (63, 65, 43), pump assembly 7, 10 and liquid delivery system 22, 27 and 30, an air delivery system (20). Altenburger et al lack a feed line, an air control valve and a fitting defining a mixing chamber to generate a foam. Hayes shows a feed line 55 to introduce a pressurized gas, an air control valve 60 to adjust the air pressure and a fitting 61 to generate foam in a mixing chamber.

It would have been obvious to one of ordinary skill in the art to have modified the Altenburger et al device with a feed line to introduce a pressurized gas an air control valve and a fitting defining a mixing chamber as taught by Hayes to control the air pressure and to generate a foam.

Re claim 10 official notice has been taken that pressure release valves for pressurized containers are well known and therefore it would have been on obvious choice in design to modify Altenburger with a pressure release valve, in order to release any excess pressure in the event the pressure in the tank is inadvertently raised to an

abnormally high pressure. Also applicant admits on page 8 that a pressure release valve and a feed line are conventional accessories.

Re claims 19-20, 24-25 and 30-31 applicant admits on page 12, lines 15-16 the mixing medium can be entirely absent and therefore an obvious choice in design, in order to prevent debris from being dispensed.

Response to Arguments

3. Applicant's arguments filed 12/18/2007 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Altenburger et al. disclose a hand-operated portable sprayer (col. 1, ll. 1-9), which comprises a tank 1, flow controller (63, 65, 43), pump assembly 7, 10 and liquid delivery system 22, 27 and 30 and air delivery (20), where the liquid and air being mixed at the nozzle. However, Altenburger et al lack a mixing chamber to generate a foam. Hayes shows a feed line 55 to introduce a pressurized gas, an air control valve 60 to adjust the air pressure and a fitting 61 to generate foam in a mixing chamber. One having ordinary skill in the art would modify the Altenburger et al device with a feed line to introduce a

pressurized gas an air control valve and a fitting defining a mixing chamber as taught by Hayes to control the air pressure and to generate a foam.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas, whose telephone number is 571-272-4931. The examiner can normally be reached from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frederick C. Nicolas/

Primary Examiner, Art Unit 3754